

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Eugene Gayda

v.

Civil No. 05-cv-244-JD

City of Nashua, et al.

O R D E R

Following the discussion at the final pretrial conference about which claims remain in this case, the court reviewed its previous orders. On Gayda's federal claims against the City of Nashua, Chief Buxton, and Fire Marshall Vaccaro, summary judgment was granted in favor of the defendants. The only federal claim remaining is against Philip Chouinard. Gayda's state law claims of trespass and invasion of privacy, alleged against Chouinard and the City of Nashua were not resolved on summary judgment and remain in the case.

The defendants moved in limine to preclude evidence of other incidents when Nashua Fire and Rescue officers have entered private residences to inspect for smoke detectors without a warrant or proper consent. They argued that the evidence was meager, did not involve Chouinard, and was more unfairly prejudicial than probative. Gayda objected to the motion on the ground that the evidence was relevant to his federal claim against Nashua. The court denied the motion, based on Gayda's

asserted need to use the evidence to support his federal claim against Nashua. Because Gayda no longer has a federal claim against Nashua, that evidence is no longer relevant and would be unfairly prejudicial.

Therefore, on reconsideration, the court concludes that the defendants' motion in limine to exclude evidence of other incidents should have been granted.

Conclusion

For the foregoing reasons, the court's order issued on October 4, 2006, (document no. 17) is vacated and is replaced by this order. The defendants' motion in limine (document no. 12) is granted.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

November 3, 2006

cc: Brian J.S. Cullen, Esquire
Fred K. Mayer, III, Esquire